



US Army Corps
of Engineers

Public Notice

Date: 7 APRIL 2000

Alaska District
Regulatory Branch (1145b)
Post Office Box 898
Anchorage, Alaska 99506-0898

Identification No SPN-00-05

In reply refer to above Identification Number

SPN-00-05

ALTERNATIVE PERMIT PROCESSING PROCEDURE 93-1
DISCHARGE OF DREDGED AND/OR FILL MATERIAL
FOR WATER, WASTEWATER, AND SANITATION FACILITIES
IN ALASKAN VILLAGES

The District Engineer, Alaska District, Corps of Engineers, has issued an Alternative Permit Processing procedure 93-1 (APP 93-1) for certain activities under authority of Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 et seq.) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) to authorize the placement of dredged and/or fill material and structures into waters of the United States (U.S.), including wetlands, for activities associated with individual and community sanitation systems, along with their associated support facilities, in villages throughout Alaska.

In response to Special Public Notice 99-04, dated March 18, 1999, proposed APP 93-1 was revised to reflect comments submitted by local, State, and Federal agencies and the interested public. Based on a review of all pertinent information, including a prepared Environmental Assessment, I have concluded that issuance of this procedure will not have more than minimal adverse impact on the environment and is not contrary to the public interest.

This APP establishes an expedited procedure to authorize the placement of dredged and fill material into waters of the U.S. including wetlands, and the placement of structures in navigable waters, associated with the construction of sanitary facilities within Alaska, primarily in rural areas. Sanitation facility is herein defined as a facility that is designed to provide clean water or remove domestic waste from the local environment and consists principally of individual wells and septic systems, as well as community sewer, septic and water systems. Solid waste disposal sites (landfills), soil remediation facilities and industrial or commercial water and wastewater treatment facilities are excluded from this definition and from this APP.

Applications for review under this APP are restricted to projects funded by Federal and State agencies, primarily the U.S. Indian Health Service (IHS), Alaska Area Native Health Service (AANHS); Federally Recognized Alaskan Tribes carrying out IHS programs under PL 93-638; and the State of Alaska Village Safe Water Program (VSWP). Applications for projects funded by other State or Federal agencies will be reviewed under the pre-application procedures described herein, as will applications in which funding is only partially State or Federal.

Applicants wishing to perform work under APP 93-1 must review these terms and conditions carefully and submit a letter or application with appropriate information and project drawings to the Corps of Engineers to receive confirmation that their work would be covered under this APP. No work can proceed without that confirmation. If the proposed work does not meet the requirements of the terms

and conditions, the APP does not apply and the application would be processed under individual permit processing procedures.

APP 93-1 has been issued for a period of five years, effective the date of the signature shown on the last page of the procedure. The DE may at any time during this five-year period alter, modify, suspend, or revoke this procedure if he/she deems such action to be in the public interest.

Any questions or request for additional information should be directed to: Alaska District, Corps of Engineers, ATTN: David S. Hobbie, Regulatory Branch, Post Office Box 898, Anchorage, Alaska 99506; phone (907)753-2712, toll free in Alaska at (800)478-2712, or e-mail at David.S.Hobbie@poa02.usace.army.mil

District Engineer
U.S. Army Corps of Engineers

**ALTERNATIVE PERMIT PROCESSING PROCEDURE 93-1
FOR WATER, WASTEWATER, AND SANITATION FACILITIES IN ALASKA**

INTRODUCTION

This Alternative Permit Processing procedure (APP) is intended to expedite the processing of projects for which all substantive issues can be resolved in an abbreviated time frame. A permit decision will normally be rendered within 30 days as noted under the procedures section. A recipient of a permit shall be referred to as a permittee. All activities authorized by the APP will be subject to the following general and special conditions. Deviation from particular special conditions may be considered on a case by case basis.

APPLICABILITY

This APP applies to permit applications for the discharge of dredged and/or fill material in waters of the United States (U.S) for the primary purpose of construction or upgrade of community sanitation facilities, primarily water systems, and wastewater and sewer facilities, along with associated support facilities (such as access roads, washeterias, or water tanks) throughout Alaska. The APP is intended for projects constructed and/or funded by U.S. Indian Health Service(IHS), Federally Recognized Alaskan Tribes carrying out IHS programs under PL 93-638, the Alaska Village Safe Water Program (VSWP), or other local, state, or Federal entities. It is not the intent of this APP to consider projects in major population centers such as the Municipality of Anchorage, Fairbanks, Juneau, Sitka, Ketchikan, Kenai, Homer, Seward, Petersburg, Wasilla, Palmer, Unalaska/Dutch Harbor, Naknek, Bethel, King Salmon, Soldotna, Dillingham, Kodiak, Valdez, Cordova or other large communities. However, projects in such locations may be considered on a case by case basis with written justification (i.e. Environmental impacts, Alternatives etc...). Solid waste disposal sites (landfills) and soil remediation facilities are excluded from this process, as are industrial or commercial waste and wastewater disposal and treatment facilities.

REQUIREMENTS FOR APP USE

This APP includes the General Conditions listed in DA Permit, ENG form 1721, Nov 86, a copy of which is attached, and the Special Conditions and Procedures found in the text that follows. All General and Special Conditions must be met in order for the work to be authorized under the APP. If the proposed work does not meet the requirements of the terms and conditions, this APP will not apply (except as noted above), and the application will be processed as an application for an individual DA permit under the standard processing procedures with a separate Public Notice per 33 CFR 325.2. If work is authorized, failure to comply with these conditions and the terms of the APP may result in suspension of the work, revocation of the permit, removal of the fill, restoration of the wetlands, and/or imposition of penalties as provided by law. No work shall be performed under this APP until it has been specifically authorized by DA, as described in paragraphs "C" and "D" under procedures.

SPECIAL CONDITIONS:

1. Land clearing, and fill in wetlands must be limited to the amount reasonably necessary for the construction of proposed facilities. To the extent feasible and prudent this includes minimizing and consolidating all facilities, especially transportation corridors and crossings of anadromous fish streams. Also, dimensions of fill pads for buildings, sewage lagoons, access roads, driveways, and related features shall not exceed five acres within Waters of the United States. Additionally, within the five acres, the combined length of access roads must not

exceed 5,000', and written justification must be provided if the proposed road length exceeds 2,000 linear feet.

2. The boundaries of fill areas in wetlands must be staked or flagged every 100 feet prior to construction to prevent inadvertent encroachment of wetlands.

3. If fuel storage tanks must be placed within 200 feet of any open water body, they must be of less than 10,000 gallons capacity, placed within an impermeable dike of 110 percent capacity of the largest independent container, and written justification for this placement along with leak and spill prevention specifications must be provided to the Corps. In addition, all fuel storage shall meet all Local, State and Federal storage and handling requirements.

4. Disturbed ground and exposed soil not covered with fill, structures, or other features must be stabilized and revegetated with native species vegetation in an appropriate and timely manner to minimize erosion and sedimentation, so that a durable vegetation cover is established and maintained.

5. Projects proposing placement of fill in Waters of the United States within 100' of the ordinary high water mark or high tide line of any open water body, including streams, sloughs, rivers, ponds, lakes, estuaries, marine waters, or permanently flooded emergent wetlands, must provide written justification of this necessity. When fill is required within 100' of any open waterbody, a vegetation buffer shall be left in place between the waterbody and the facility. A plan to incorporate a buffer must be included with the application.

6. To the extent practicable, the fill must consist of clean, uncontaminated gravel or rock. If petroleum contaminated (crude oil or refined oil products) material is used, a written justification demonstrating that the material has been treated to meet ADEC cleanup standards for reuse and other ADEC requirements in effect at the time, must accompany the permit application. The justification must include test data, required and approved by ADEC, documenting that the treated material meets the relevant ADEC standards.

7. The discharge of treated material adjacent to (within 100 feet) or in anadromous fish streams must be coordinated with the Alaska Department of Fish and Game (ADFG). If the fill consists of treated petroleum contaminated material, written justification must be submitted and an ADFG Title 16 permit must be received.

8. If permafrost is present, gravel thickness or insulation shall be sufficient to prevent thermal degradation.

9. Natural drainage patterns must be maintained using appropriate ditching, culverts, storm drain systems and other measures, to the extent practicable, without introducing ponding or drying. Excessive ponding and/or dewatering of areas adjacent to fill areas shall indicate non-compliance of this condition.

10. In no instance shall tundra or other natural ponds be permitted for primary sewage treatment. In an instance where a natural pond is to be converted into secondary treatment written justification must be submitted with the permit application.

11. No activities shall be conducted in waters specified as being important for the spawning, rearing, or migration of anadromous fish under AS 16.05.870(a) without prior authorization from the ADFG. Applicants shall obtain and comply with any ADFG Fish Habitat Permit issued under AS 16.05.870, if a permit is required.

12. No activities shall be conducted in a fish stream that could interfere with the free upstream and downstream passage of fish without prior authorization from the ADFG. Applicants shall obtain and comply with any ADFG Fish Habitat Permit issued under either AS 16.05.840 or .870, if a permit is required.

13. The Permittee shall stabilize and maintain dredged and/or fill material in areas subject to Corps of Engineers' jurisdiction so that erosion of sediment into adjacent waters or wetlands is avoided.

14. Storage, transport, and disposal of excavated material within Waters of the United States must be managed to prevent sedimentation of adjacent wetlands and waters, and to prevent leachate from causing odor problems or degradation of water quality. Excavated materials must be stored and disposed at least 100' from any waterbody. If the storage or disposal of the material is within 100' of the waterbody, written justification must be provided. Excavation of overburden must be followed by placement of fill within the shortest reasonable time, so that substrate is not left exposed for extended periods.

15. Storage facilities for toxic or hazardous wastes shall meet Local, State and Federal requirements for storage and handling of such materials.

16. The applicant shall provide evidence of consultation (with permit application) with the Federal Aviation Administration concerning distance from clear zones of airports so that birds attracted to sewage lagoons are not a hazard to airport traffic.

17. Reasonable precautions and controls must be used during construction to prevent incidental and accidental discharge of petroleum products. Materials such as sorbent pads and booms must be readily available on-site, and must be used to contain and cleanup any petroleum product spilled as a result of construction activity.

18. Federal applicants must consult with State Historic Preservation Officer (SHPO) and, if necessary, the Advisory Council on Historic Preservation (Council) on the effects of their projects on historic properties, as per Section 106 of the National Historic Preservation Act. Should an adverse effect to historic properties be identified, DA will become an interested party to the consultation, and local historic councils will be notified. State applicants must consult with DA and SHPO to accomplish the same purpose. When the applicant is the State, DA will assume lead agency role in Section 106 consultation unless there are extenuating circumstances.

19. If, during prosecution of the work, previously unknown archeological or historic remains are located, the permittee shall immediately inform this office (753-2712; (800) 478-2712), local historic councils (if present) and SHPO (269-8721) of what has been found. In the case of a Federal applicant, the applicant and SHPO shall determine if the remains are eligible for inclusion in the National Register of Historic Places and determine, in consultation with the Council, any appropriate mitigation. The DA shall function as an interested party. In the case of a State applicant, the DA shall take the lead agency role in consultation.

20. Pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (Act), the proposed activity shall not adversely affect any species listed as threatened or endangered under the Act. Additionally, the proposed activity shall not jeopardize the continued existence of any proposed species under the Act. All applicants must contact the U.S. Fish and Wildlife Service (USFWS) and the NMFS to determine whether any listed or proposed species may be present at the site of the proposed activity and include documentation of this in their application. The Corps shall, as required by section 7 of the Act, consult with USFWS and the NMFS once applications are complete. If it is determined that listed species are likely to be adversely affected, and/or proposed species are likely to be jeopardized by the permitted action or related activities, this APP shall not apply to this specific activity, or shall be suspended until Section 7 Consultation is complete.

21. The activity shall not be located within 660' of an eagle nest site unless the USFWS determines that the activity will not adversely impact the eagles. The

applicant has additional responsibilities to protect eagles under provisions of the Bald Eagle Protection Act.

22. There shall be no discharges authorized in a National Wildlife Refuge, existing or nominated Wild and Scenic River, National Park system unit, or other National Conservation Area lands without prior consultation with the appropriate agencies and unless the activity is specifically authorized by the appropriate land management agencies prior to initiating the work.

23. There shall be no discharges authorized in designated State Critical Habitat Areas, Game Refuges, Sanctuaries, or Areas Which Merit Special Attention (which have been incorporated into the coastal zone management plan) without prior consultation and unless the activity is specifically authorized by the appropriate land management agencies prior to initiating the work.

24. This APP does not supersede activities currently covered by DA nationwide permits. No additional authorization is required from the DA for nationwide-permitted activities, if all terms and conditions of the applicable nationwide permit(s) are met.

25. This authorization does not obviate the need for other Federal, State, and local permits, licenses, or approvals that may be required for the proposed work.

OTHER INFORMATION

The Alaska District has fulfilled the Essential Fish Habitat (EFH) consultation requirement with the National Marine Fisheries Service. Since the EFH recommendations have been adopted as management area prescriptions, no further EFH consultation is required. In the event that any deviation from these recommendations is proposed, an individual EFH consultation will be necessary.

PROCEDURES

A. An applicant desiring authorization under this APP must submit a description of the proposed work to: U.S. Army Corps of Engineers, Regulatory Branch, Post Office Box 898, Anchorage, Alaska 99506-0898. An application will be considered complete when the following elements are present:

(1) Plans (8-1/2" x 11") which clearly show the proposed fill and structures to be built thereon, including dimensions, in overview and cross section;

(2) A vicinity map and description of the location of the project, including Section Township, Range, and Meridian; and/or legal description (lot, block, survey number)

(3) The quantity (in cubic yards), type, and source of fill material to be discharged; amount to be stockpiled and its footprint, if in wetlands;

(4) Information regarding prior disturbance if any

(5) The name and location of the nearest waterbody as well as any known drainages surrounding the facility;

(6) The purpose of the fill (e.g. foundation for building road, sewer project, etc. ;

(7) A written justification should any of the following apply: (a) any fill (including any fuel storage facility) within 100' of an open water body and a plan for a vegetation buffer must also be included in this instance; b) any use of treated fill; c) conversion of a tundra pond into a sewage lagoon; d) if the project

is associated with a "large" town such as those on the list on page 1; and e) any other unusual circumstance;

(8) A discussion of other alternatives (location, methods, size) considered and

(9) Aerial photography of the site, if reasonably available

The application is considered complete when the applicant furnishes the required information above, documentation of initial consultation with the appropriate agencies on endangered species, essential fish habitat, wildlife hazards, and cultural resources, and appropriate information necessary to demonstrate the project complies with the terms and conditions of this APP.

A pre-application meeting may also be scheduled if involved parties are agreeable to such a meeting, or if the proposed project could be considered controversial.

B. When the DA determines the application is complete, meets the terms and conditions of the procedure, and that there would be minimal impact, the application and supporting material will be faxed to the appropriate commenting agencies and any interested party for a period of 15 calendar days.

Commenting agencies, the affected coastal district(s), and interested parties have the right to verbally comment within the 15 calendar days and request a 10-calendar-day extension to furnish written comments by mail, fax, or e-mail. If the matter is resolved in writing or by telephone within the extension period, DA shall issue the permit.

If any commenting party, within the 15-day review period, states in writing, by FAX, by e-mail, or by telephone that the project does not fit the terms of the APP or should not be issued under the APP, the application will be processed under individual DA permit procedures with a separate public notice [33 CFR Part 325.2(a)(1-5)].

Because procedures under the 404(q) Memorandum of Agreement (MOA) fully apply under the APP procedure, NMFS, USFWS, and/or the Environmental Protection Agency may maintain that issues have not been resolved, and request additional time to provide comments. Such requests for time extensions will follow and fully comply with the respective 404(q) MOA. Parties other than Federal agencies will also have an opportunity to provide comments when a time extension has been granted.

C. It is the goal of the DA to render a permit decision within 30 calendar days of the receipt of a complete application. In the event the applicant has not been contacted by the DA within 30 calendar days of receipt of the application, the applicant may seek oral authorization to proceed. Oral authorization will be granted only after a decision to issue the permit has been made, a 404(b)(1) evaluation has been completed, and only in cases where there are no unresolved issues. Oral authorization will be followed immediately (normally within one working day) by written authorization.

D. Once the decision has been made to authorize the proposed work, a permit will be drafted for the applicant's signature. After the applicant signs two copies of the permit, the DA will countersign the documents and return one copy to the applicant along with an Authorization Notice. The permit form will carry the following sentence: "Standard procedures [33 CFR Part 325.2(a)] were not followed in granting this authorization."

MONITORING

The applicant shall provide copies of plans (cross sections and plan views) to DA once each project is finished. These shall be compiled yearly in December and January and, along with a summary of the projects completed and the acreage affected

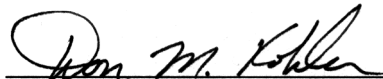
provided to the commenting agencies and interested parties that request to receive the reports.

Periodic field inspections of projects authorized under the APP shall be undertaken by this office. Reports shall be prepared for all field inspections and entered into the official file. The Regulatory Branch shall maintain a file of APP related documents and monitoring efforts. Information contained in the APP file shall provide the basis for the decision whether or not to renew or revise the APP.

EXTENSION, MODIFICATION AND REVOCATION OF ABBREVIATED PERMIT PROCEDURE

This APP will be in effect for a period of 5 years. At the end of the 5-year period, an evaluation of the APP procedure will be made and at that time, it will be decided whether or not this APP should be renewed. This APP may be modified or revoked by issuance of a Public Notice at any time the DE determines that it is appropriate to do so. Following such revocation any future activities in areas covered by this APP will be processed as standard individual permits.

FOR THE DISTRICT ENGINEER:


Don M. Kohler
Alaska District, Corps of Engineers

3/31/00
Date

STATE OF ALASKA

DS

TONY KNOWLES, GOVERNOR

☐ PIPELINE COORDINATOR'S OFFICE
411 WEST 4TH AVENUE, SUITE 2C
ANCHORAGE, ALASKA 99501-2343
PH: (907) 271-4317/FAX: (907) 272-0690

David Hobbie
U.S. Army Corps of Engineers
Regulatory Branch, (1145b)
Post Office Box 898
Anchorage, AK 99506-0898

Dear Mr. Hobbie:

SUBJECT: FINAL CONSISTENCY RESPONSE
APP 93-1
STATE I.D. NO. AK 9903-13AA

The Division of Governmental Coordination (DGC) has completed the review of your project for consistency with the Alaska Coastal Management Program (ACMP). This consistency determination applies to the federal consistency determination required for the project per 15 CFR 930 Subpart C. On February 2, 2000 you were issued a proposed consistency response for your project. This is the State's final consistency response.

The project is the re-issuance of Alternative Permit Processing procedure 93-1 (APP 93-1) "Discharge of Dredged and/or Fill Material for Water, Wastewater, and Sanitation Facilities in Alaskan Villages". The APP 93-1 applies to permit applications for the discharge of dredged or fill material into waters of the United States for the primary purpose of construction or upgrade of community sanitation facilities, primarily water systems, and wastewater and sewer facilities, and for their associated support facilities (such as access roads, washeterias, or water tanks) throughout Alaska. The APP is intended for projects constructed, and/or funded by the U.S. Indian Health Service (IHS), Federally recognized Alaskan Tribes carrying out IHS programs under PL 93-638, the Alaska Village Safe Water Program (VSWP), or other local, state or federal entities. It is not the intent of the APP to consider projects in major population centers (Anchorage, Fairbanks, Juneau, Sitka, Ketchikan, Kenai, Homer, Seward, Petersburg, Unalaska/Dutch Harbor, Wasilla, Palmer, King Salmon/Naknek, Soldotna, Dillingham, Bethel, Kodiak, Valdez, and Cordova). However, projects in such locations may be considered on a case by case basis with written justification. The APP excludes solid waste disposal sites (landfills), soil remediation facilities, and industrial or commercial

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Alaska District, Corps of Engineers

waste and wastewater disposal and treatment facilities from this process. Your project was reviewed for consistency by the Alaska Departments of Natural Resources, Environmental Conservation, and Fish and Game, and the Coastal Districts and Coastal Resource Service Areas (CRSA) throughout the State. The State agrees the activity is consistent to the maximum extent practicable with the following alternative measures:

- 1 Fuel Storage shall not be permitted within 200' of a water body (i.e., rivers, streams, lakes, wells, wetlands, or marine waters which provide domestic or public water supplies, support anadromous fish populations, or are adjacent to areas of human settlement or use which are highly susceptible to petroleum contamination) or within the 100 year floodplain, whichever is greater, unless written justification is submitted which clearly describes:
 - Why such placement is unavoidable, and
 - The precautions that will be taken to prevent uncontained leaks and/or spills. (KPB EP 13.2b., AWCRSA EP C-10, Hoonah EP 1.5)
- 2 Fuel storage tanks shall be provided with at least one mechanical or operational means to minimize the potential for tank overfilling:
Note: Mechanical float devices are not recommended, as they have a high failure rate in the Alaskan environment.
- 3 Petroleum storage tanks shall be located within a secondary containment structure, or structures, that have the capacity to hold the volume of the largest tank within the containment area, plus enough additional capacity to allow for local precipitation (typically 110%).
 - In Aleutians West CRSA and Aleutians East Borough secondary containment volume must equal 115% of the largest independent container/tank plus 12" of freeboard.
4. The secondary containment structure(s) must be fully impermeable, with ground surfacing and berms, dikes, or retaining walls constructed of impermeable materials, or lined with impermeable materials. (This requirement includes the ground under the tanks, in order to prevent the release of spilled or leaked petroleum from the containment area).
- 5 Each containment structure must be constructed so that it can be drained of accumulated water through a secure valve with a locking mechanism to prevent unauthorized discharge. Water discharged from the containment area, and runoff discharged from fuel dispensing facilities must meet the AK Water Quality Standards in 18 AAC 70. Any sheen present on the accumulated water must be removed by using sorbent pads, an oil/water separator, or other effective means prior to discharge.

6. To assist in leak detection, all piping, to the extent practicable, must be above ground. Examples of possible exceptions are road crossings, containment dike penetrations, and piping in utiladors. Aboveground piping must be placed on pipe supports that prevent chaffing and corrosion. Underground piping must be adequately protected against corrosion.
7. In the Bering Straits CRSA, a Plan of Operation for Recovery, Storage, and Transport of Spilled Petroleum or Petroleum Products must be prepared for storage of 5,000 gallons or more. (Bering Straits CRSA C-9)
8. In KPB and the City of Haines, all culverts and drainage structures located in known floodplains must be adequately sized and positioned to accommodate a 100-year flood event. (KPB EP 3.1 and 3.2, Haines EP E.3)
9. In Aleutians West CRSA, Aleutians East Borough, Cenaliulriit CRSA, Bering Straits CRSA, and the Hoonah Coastal District culverts shall be designed, constructed, and maintained to accommodate, at a minimum, the best available estimate of the 25 year flood peak discharge. (Aleutians West CRSA EP B-4, Aleutians East Borough A-5, Cenaliulriit CRSA EP B-3, Bering Straits CRSA EP B-13, Hoonah EP 6.7 b)

Rationale: The measures in items 1-9 are necessary to prevent adverse impacts to State Waters and Waters of the U.S. and minimize negative impacts to water quality, channel substrate and important fish and wildlife habitat. (6 AAC 80. 130 "Habitats", 6 AAC 80.140 "Air, Land, and Water Quality").

The alternative measures are necessary to ensure consistency with the state standards and district policies enclosed in the Proposed Consistency Determination issued on February 2, 2000. Copies of the relevant ACMP statewide standards and district policies were enclosed with the proposed finding.

This final consistency determination represents a consensus reached between you as the project proponent and the reviewing agencies listed above, as provided under 6 AAC 50.70(k), regarding the conditions necessary to ensure the proposed project is consistent to the maximum extent practicable with the ACMP.

The following State permit is also needed for the project:

Alaska Department of Environmental Conservation (DEC)
Section 401
Certificate of Reasonable Assurance

Other Concerns or Advisories

Please be advised that although the State has found the project consistent with the ACMP, based on your project description and any modifications contained herein, you

are still required to meet all applicable State and federal laws and regulations. Your consistency determination may include reference to specific laws and regulations, but this in no way precludes your responsibility to comply with other applicable laws and regulations.

DNR has provided the following advisory: *Please be advised that any use of state owned land managed by the DNR may require a land use authorization and a separate public notification process. This includes use of state owned uplands, tidelands, or submerged lands. Applicants are responsible to ascertain whether their proposed project or activity is located on state land and whether an authorization is required from DNR. Applicants are also advised that unauthorized use of state land, tide, or submerged land, water or materials is subject to trespass action by the State. Applicant should contact the DNR Public Information Center at 550 W. 7th Avenue, Suite 1260; Anchorage, AK 99501-3564 or call (907) 269-8400 to confirm whether their project is located on state land.*

If changes to the approved project are proposed prior to or during its siting, construction, or operation, you are required to contact this office immediately to determine if further review and approval of the revised project is necessary. If the actual use differs from the approved use contained in the project description, the State may amend the State approvals listed in this consistency determination.

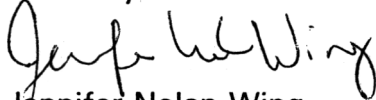
This consistency determination does not obligate DNR to issue authorization under AS 38.05, nor does it supersede the statutory obligations thereunder. You may not proceed with any specific land use activity on the subject State lands until authorized by DNR/Division of Mining, Land and Water. Authorities outside the ACMP may result in additional permit/lease conditions not contained in the consistency decision.

Should cultural or paleontological resources be discovered as a result of this activity, we request that work which would disturb such resources be stopped, and that the State Historic Preservation Office (269-8715) and the U.S. Army Corps of Engineers (COE) (753-2712) be contacted immediately so that consultation per section 106 of the National Historic Preservation Act may proceed.

This final consistency determination is a final administrative decision for purposes of Alaska Appellate Rules 601-612. Any appeal from this decision to the superior court must be made within 30 days of the date of this determination.

Thank you for your cooperation with the ACMP.

Sincerely



Jennifer Nolan Wing

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF AIR AND WATER QUALITY NON-POINT SOURCE WATER POLLUTION CONTROL

TONY KNOWLES, GOVERNOR

555 Cordova Street
Anchorage, AK 99501-2617
Phone: (907) 269-7564
Fax: (907) 269-7508
TTY: (907) 269-7511
<http://www.state.ak.us/dec/>

February 15, 2000

Certified Mail Z526 022 522
Return Receipt Requested

David Hobbie
U.S. Army Corps of Engineers
Regulatory Branch, (1145b)
PO Box 898
Anchorage, AK 99506

Re: Amendment to Certificate of Reasonable Assurance
APP 93-1
State I.D. No. AK 99-0312AA

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U.S. Army Corps of Engineers
Anchorage, Alaska

Dear Mr. Hobbie:

This letter amends the referenced certification issued to the Corps of Engineers on March 1, 1994, in accordance with Section 401 of the federal Clean Water Act and provisions of the Alaska Water Quality Standards. The subject certification is re-issued with the following conditions as required by the Alaska Coastal Management Program:

Fuel storage shall not be permitted within 200' of a water body (i.e., rivers, streams, lakes, wells, wetlands, or marine waters which provide domestic or public water supplies, support anadromous fish populations, or are adjacent to areas of human settlement or use which are highly susceptible to petroleum contamination) or within the 100 year floodplain, whichever is greater, unless written justification is submitted which clearly describes:

- *Why such placement is unavoidable, and
- *The precautions that will be taken to prevent uncontained leaks and/or spills.

2. Fuel storage tanks shall be provided with at least one mechanical or operational means to minimize the potential for tank overfilling.
3. Petroleum storage tanks shall be located within a secondary containment structure or structures, that have the capacity to hold the volume of the largest tank within the containment area, plus enough additional capacity to allow for local precipitation (typically 110%).

In Aleutians West CRSA and Aleutians East Borough, secondary containment volume must equal 115% of the largest independent container plus 12" of freeboard.

"Clean Air, Clean Water"

- 4 The secondary containment structure(s) must be fully impermeable, with ground surfacing and berms, dikes, or retaining walls constructed of impermeable materials, or lined with impermeable materials. This requirement includes the ground under the tanks, in order to prevent the release of spilled or leaked petroleum from the containment area.
- 5 Each containment structure must be constructed so that it can be drained of accumulated water through a secure valve with a locking mechanism, to prevent unauthorized discharge. Water discharged from the containment area and runoff discharged from fuel dispensing facilities must meet the Alaska Water Quality Standards in 18 AAC 70. Any sheen present on the accumulated water must be removed by using sorbent pads, an oil/water separator, or other effective means, prior to discharge.
- 6 To assist in leak detection, all piping, to the extent practicable, must be above ground. Examples of possible exceptions are road crossings, containment dike penetrations, and piping in utilidors. Above ground piping must be placed on pipe supports that prevent chaffing and corrosion. Under ground piping must be adequately protected against corrosion.
- 7 In the Bering Straits CRSA, a Plan of Operation for Recovery, Storage, and Transport of Spilled Petroleum or Petroleum Products must be prepared for storage of 5,000 gallons or more.
- 8 In the Kenai Peninsula Borough and the City of Haines, all culverts and drainage structures located in known floodplains shall be adequately sized and positioned to accommodate a 100 year flood event.
- 9 In Aleutians West CRSA, Aleutians East Borough, Cenaliulrit CRSA, Bering Straits CRSA, and the Hoonah Coastal District, culverts shall be designed, constructed and maintained to accommodate, at a minimum, the best available estimate of the 25 year flood peak discharge.

By copy of this letter, we are advising the Division of Governmental Coordination of this action. Please contact me if you have any questions concerning this amendment.

Sincerely,



Tim Rumfelt
Environmental Specialist

cc Jennifer Nolan Wing, DGC

DEPARTMENT OF THE ARMY PERMIT

Permittee _____

Permittee No APP 93-1

Issuing Office _____

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

"Standard Procedures [33 CFR Part 325.2(a)] were not followed
in granting this authorization"

COPY

Project Location:

Permit Conditions

General Conditions

1. The time limit for completing the work authorized ends on _____. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

See Public Notice

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(☒) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(☒) Section 404 of the Clean Water Act (33 U.S.C. 1344).

(☐) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

COPY

(PERMITTEE) AND TITLE

(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

COPY

FOR _____
(DISTRICT ENGINEER)

(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFeree)

(DATE)